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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,787	04/20/2001	Brian Lee Badger	20-LC-4068/624226-304	9792

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EXAMINER

FISHER, MICHAEL J

ART UNIT PAPER NUMBER

3629

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/838,787

Applicant(s)

BADGER ET AL.

Examiner

Michael J. Fisher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 10-17, 20-24 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10-17, 20-24 and 28-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4,6-8,10-17,20-24 and 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 5,432,904 to Wong.

As to claims 1,13,22, 28, 30 and 30 Wong discloses a method of preparing for the repair of a damaged vehicle, (title), comprising providing a database of parts regarding a plurality of vehicles (col 5, lines 36-40), defining a plurality of parts kits (col 5, lines 37, plurality of groups of parts), which groups would be for predefined collision events involving a region (this would be inherent), communicating a user's assessment of damage (claim 1), designating a specific repair kit (claim 2), communicating such designation to the user (claim 3). Computers inherently have data ports to access them.

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Wong does not, however, teach using the system for locomotives or an assessment of the damage prior to arriving at the repair location or designating a kit prior to arrival. Wong does teach using it for vehicles (preamble claim 1). Therefore, it would have been obvious to one of ordinary skill in the art to use the system as disclosed by Wong for locomotives as locomotives are vehicles and Wong discloses this a good system for repairing vehicles. Further, Wong discloses a digital camera (col 9, lines 26-31) which digital cameras are inherently portable, and further teaches correlating the images with parts collections (col 9, lines 35-39). Wong is silent on when or where the pictures would be taken. It would have been obvious to one of ordinary skill in the art to take the pictures prior to the vehicle arriving at the repair center and further to use the pictures to have the parts ready to reduce the time spent in the repair shop.

As to claims 2 and 14, Wong does not disclose collecting and transporting the parts. It would have been obvious to one of ordinary skill in the art to collect and transport the parts after calculating which parts to send so as to enable the user to actually repair the vehicle and further, to provide delivery information so the user knows the part are being delivered. Further, it would be obvious to have the parts there before the vehicle arrives to reduce the time spent at the repair center.

As to claims 3,15 and 29, it would have been obvious to one of ordinary skill in the art to transport all the parts to where the repairs will take place, together in the same shipment to lower shipping costs and to ensure the user gets all the parts necessary.

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Further, the damage would inherently be to a "respective region of the locomotive" and the user would select the repair kit in response to the damage done to a region.

As to claims 4 and 17, it is very well known in the art to include instructions with parts therefore, it would have been obvious to one of ordinary skill in the art to send instructions to ensure the parts are correctly installed.

As to claim 6, Wong does not disclose maintaining the database at a service center location, however, as the system is designed for servicing vehicles, it would have been obvious to one of ordinary skill in the art to maintain the database at a service center location so that the service center could use the system. Wong further does not disclose using a network to access the system. Connecting personal computers to a network (the Internet) is very well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to use a network as Wong discloses using personal computers (col 5, lines 7-9) and this way the system could be used at remote workstations, in the case of a chain of repair stations, and would avoid the necessity of having the same system installed on disparate resources.

As to claim 7, Wong discloses providing the availability of parts included in the database (claim 1 provides for parts lists, this would point to their availability). Wong does not disclose delivery options. It is very well known in the art to provide to customers estimated delivery times. Therefore, it would have been obvious to one of ordinary skill in the art to provide a delivery schedule to the user so the user will know when the parts are to arrive.

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As to claims 8 and 21, Wong discloses providing pricing information (claim 32), defining price quotation (claim 34), and providing it (claim 34), further, the system inherently uses an information network (that which connects the monitor and keyboard to the CPU).

As to claim 9, Wong discloses directing a damaged vehicle to a repair center (this would be inherent as the vehicle is shown to be checked for damage), the user would know the damage before the vehicle was brought to the repair center as this is the reason for the vehicle being repaired, and designating a specific repair kit in response to information prior to the locomotive arriving at the center (after the user provides photographic evidence, claim 29).

As to claims 10 and 33, the evidence is pictorial (claim 29), the damage is assessed at least in part from the picture (claim 29) and the photograph is used to identify the damaged section (col 9, line 35-39).

As to claims 11 and 16, Wong discloses a graphical representation of the vehicle, (graphics means, claim 1), enabling the user to communicate damage via the graphical user interface (software necessary for claim 1) and using the graphical interface to select the parts (claim 5).

As to claim 12, Wong enables the user to assess the damage answering a plurality of questions (claim 1).

As to claim 20, Wong discloses parts of different prices (claim 34) and this would inherently contain upgrades.

As to claim 23, where the information is provided from would not be considered to be patentably distinct.

As to claim 24, Wong does not disclose a wireless communication link. Wireless communications links are very well known in the art and therefore, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Wong by adding a wireless connection to make the system portable.

As to claim 32, it would be obvious to one of ordinary skill in the art to use upgraded parts else older, defective parts could be used.

Response to Arguments

Applicant's arguments, including the affidavit under rule 1.132, filed 3/21/05 have been fully considered but they are not persuasive. Specifically, as discussed, Wong does teach groups of parts which would meet the limitations of "kits". As applicant's affidavit points out, there are many different parts associated with different regions. The affidavit further points out that there are many different parts for each collision event. The result of this observation is that even similar damage to the same region could and, in many cases, would require different parts. For instance, the damage is to the front, right region of the locomotive. In some instances the wheels could be damaged, in others the wheels would not be damaged. And thus, any kit would necessarily not include all the parts necessary. Thus, the kits as disclosed by Wong meet the limitations as claimed. As to arguments in relation to claim 11, as discussed above Wong does use graphical representations of the parts required for repair. As to arguments in relation to

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claim 13, as discussed above Wong does teach kits. Further, parts are inherently associated with a "respective region", a right rear part would only be associated with the right rear. As to the arguments in relation to claim 22, see above rejection. New claims 31-33 have been addressed in the above rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

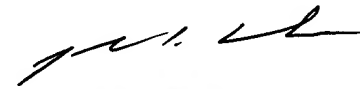
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF 
6/23/05


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